
Appeal Decision

Hearing held on 9 August 2016

Site visit made on 9 August 2016

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 September 2016

Appeal Ref: APP/R0660/W/16/3143809

Noahs Ark Farm, Spen Green, Smallwood, Sandbach CW11 2UZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Halliwell against the decision of Cheshire East Council.
 - The application Ref 14/5727C, dated 17 December 2014, was refused by notice dated 6 August 2015.
 - The development proposed is the construction of a subterranean eco-house.
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Decision

1. The appeal is dismissed.

Main Issues

2. It was common ground that the development is classified as inappropriate in the Green Belt. Therefore, I consider that the main issues in this case are:
 - The effect on the openness of the Green Belt.
 - Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. This includes whether the proposal is truly outstanding or innovative in terms of its design.

Reasons

3. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. The appellant questions what harm there would be to the purposes of the Green Belt. The development would encroach into the countryside and this would be contrary to one of the purposes of the Green Belt, which is to assist in safeguarding the countryside from encroachment. The appellant also argues that this is close to the edge of the Green Belt and there is little difference between the land within the Green Belt and that outside. Whether or not that is the case, the site is within the Green Belt and its policies and protections apply.
4. The development plan includes the Congleton Borough Local Plan First Review [LP]. Relevant policies are PS7, PS8 and H6. Also relevant, amongst others, are paragraphs 55 and 63 of the National Planning Policy Framework.

5. LP Policy PS7 aims to control development in the Green Belt, although I note this does not refer to very special circumstances, but clearly from the Framework these are relevant and would, if found to be present, override the strict policy interpretation.
6. LP Policy H6 identifies new residential accommodation allowed in the countryside and LP Policy PS8 relates to development in the open countryside. Residential development will only be permitted if it is for one of the identified purposes, none of which applies here. However, again the Framework allows designs of exceptional quality or innovative design and this would override the strict policy interpretation, as in this respect the policies are out of date.
7. Framework Policy 55 notes that isolated homes in the countryside should be avoided unless there are special circumstances, which include the exceptional quality or innovative nature of the design of the dwelling which should be truly outstanding or innovative, helping to raise standards of design more generally in rural areas, reflect the highest architectural standards, significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. I also note that Framework Policy 63 notes that in determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Paragraph 65 also relates to design.
8. While I acknowledge that there are two other residential properties, these are a considerable distance apart and are scattered and generally relatively isolated in the countryside. While the new house would be between these, there would be a considerable distance between them, and the property would still be an isolated house in the countryside. There was also some suggestion that the land was attached to the residential use of the existing house. However, the land is seen as rough pasture land, which at the time of the site visit was in use for grazing sheep. It is separated from the house by another small field and boundaries. It was agreed at the hearing that this is agricultural land.

Openness

9. The house would be located on an undulating area of land, that generally rises up from the access track. The land would be dug out so that the building could be semi recessed into the hill. However, the upper storey would remain generally above the existing ground level and would be visible from the lane, which is also a public footpath. Whether it was visible or not from public land, there would be considerable bulk of development above the ground and this would have a great impact on the openness of the Green Belt. The essential characteristics of Green Belts are their openness and permanence.

Very Special Circumstances and planning balance

10. When considering planning applications, substantial weight is to be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
11. The appellant's case is that in terms of The Framework, the development would be both of exceptional quality and of an innovative design, and that only one aspect of these needs to be demonstrated to justify development at the appeal site. However, Policy 55 of the Framework relates to development in the

countryside generally. In this case the land is also in the Green Belt where there are other factors to be considered. In any case, the development must also accord with the bullet points of Framework Policy 55.

12. In terms of design, the general expectation of the Framework is set out in the core principles, one of which is that the expectation is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Therefore to be exceptional quality of design the proposals need to be more than just high quality design. Policy GR1 also has a similar requirement for a high quality design and the proposal accords with that standard.
13. I acknowledge that great care has been taken over the design, which would be noticeable and of a high quality, but simply having a house partially underground with curved form and roof does not to my mind make it of exceptional quality. Underground buildings would not be exceptional in themselves and hiding much of the building underground is not itself an indicator of exceptional design. The building that would be visible is a very simple form with a large expanse of curved green roof, some wall with windows, of fairly plain appearance and not of itself exceptional design. In my view, the proposal is a high quality of design, but it is not exceptional, so I attach only limited weight to this.
14. The building would achieve the most stringent requirements of Passivhaus Premium standard and would achieve Code for Sustainable Homes Level 6, producing a 'low carbon' house, which is to be applauded, but again, while unusual, this is not exceptional, so I attach only moderate weight to this.
15. The proposal is to be the first in the UK using geopolymers cement which is in the process of development by banah UK. It would use excavated subsoil as the primary building material, combined with the geopolymers cement and its use would enable a reduction in CO₂ emissions and using a gridshell construction for the roof, minimising material for maximum strength. I accept that this would be unusual and an innovative use of materials and attracts great weight. It is anticipated that the proposal would generate 172% of its own energy requirement.
16. There would also be photovoltaic solar tracking and energy storage capable of changing current from direct to alternating. There would be 12 volt lighting and thermal energy store combined with photovoltaic thermal power and heat generation. It is also proposed to use electric cars for some transport needs and the storage capacity proposed would enable charging at any time. I accept that there would be some significant benefit associated with these features, but solar technology and current change are not particularly innovative and attract less weight.
17. The design would incorporate the principles of biophilic designs, which I see as a great advantage in more urban environments where the benefits would be really noticeable, but in a rural, agricultural environment such as this the advantages gained through biophilic design attract less weight, where the current agricultural and rural characteristics are beneficial to the environment.
18. I appreciate that landscaping is proposed, together with ecological enhancements, including wildflower meadows and orchards. However, this is currently agricultural land appropriate to the countryside and providing a

beneficial use in the countryside, so I attach little weight in terms of ecology. There would still be a change in the character of the land, changing from an 'agricultural' character to a residential character.

19. The justification for allowing isolated homes in the countryside under the Framework in Section 55 relates to ordinary countryside and this site is within the Green Belt, where there is even more restriction. It is also necessary to accord with the 4 points set out. While I acknowledge that great weight is to be attached to the innovative aspects of the design and other benefits of the proposal, I do not consider that it reflects the highest standards in architecture and is not sensitive to the defining characteristics of the local area.
20. The appellant suggests that the 'great' weight in Framework policy 63 would somehow override the 'substantial' weight identified in relation to Green Belts in paragraph 88. However, the Framework also notes that the Government attaches great importance to Green Belts and I have found great harm to openness.
21. In terms of economic roles, the proposal would be of a moderate economic benefit as it would contribute towards the economy of the local area in the long term, supporting the existing school and businesses in the area and in the short term during construction.
22. The occupation of a house would contribute to the social fabric of the area and the primary school has been invited to participate in the educational aspects of the project, which would be beneficial.
23. I have accepted that there would be some change to the natural environment, and support for biodiversity, but the benefit over and above agricultural use is, in my opinion, limited and any perceived enhancement is of little benefit.
24. I do not accept that it accords with or is sensitive to the defining characteristics of the area, a major aspect of which is being Green Belt, whose fundamental characteristic is identified in the Framework as being its openness and permanence, as the proposal would have a great impact on openness. It would be inappropriate development in the Green Belt, which is by definition harmful.
25. In addition, the site is not well related to facilities, being down a long lane without footpaths and lighting. I consider that the occupants would be very reliant on cars for transport. I acknowledge that 14 houses were given permission at School Lane. While that was also not found to be highly sustainable, it was considered that the overall benefits of providing affordable housing, for which there was a proven need, outweighed the concerns. This is quite different from the proposal and does not involve affordable housing, to which the council clearly attached weight in its decision.
26. In terms of sustainability I find on balance that while there are some social and economic benefits these are substantially outweighed by the environmental harm of the development and this would not be sustainable development. While I have found that some aspects of policy are out of date, in terms of paragraph 14 of the Framework, which in decision taking advocates granting planning permission where there are out of date policies, that is where the development is found to be sustainable, which in this case it is not. Also the caveat in paragraph 14 in the second bullet applies as in this case there are other relevant specific policies in the Framework relating to Green Belt

indicating that development should be restricted. However, I acknowledge the lack of an up-to-date 5 year supply of housing land and the provision of one house would be a small benefit to which I attach moderate weight.

27. I have taken into consideration the support for the proposal from the Congleton Sustainability Group, Academy and others, but their support does not outweigh the harm caused to the Green Belt. I also note the other decisions where houses have been allowed in the countryside. However, each case will be individual to its own circumstances in terms of its design, innovation and the area in which it is located. In this case, the Green Belt location is an important issue.
28. Overall, I conclude that while there are some significant benefits to the proposal particularly in relation to some aspects of innovation, overall the matters identified are neither by themselves or in combination sufficient to amount to the very special circumstances necessary to clearly outweigh the harm to the Green Belt. The proposal would not accord with LP Policies PS7, PS8 and H6 and is not justified by Framework Policies 55 and 63.

Graham Dudley

Inspector

APPEARANCES

FOR THE APPELLANT:

Mark Halliwell	Appellant
Julia Ashal	Architect
Deni Jones	Congleton Sustainability Group

FOR THE LOCAL PLANNING AUTHORITY:

David Hallam Dip TP Dip UD MRTPI	Principal Conservation and Design Officer
Nick Hulland BSc MSc MRTPI	Senior Planning Officer

DOCUMENTS

Document	1	Statement of Common Ground
	2	Letter from bannah UK Ltd
	3	Letter from Smallwood Church of England Primary Academy
	4	Information from Congeleton Sustainability Group
	5	Policies
	6	Appeal Decision APP/R0660/W/15/3130418